

December 7, 2005

VIA PERSONAL DELIVERY

The Honorable Bill Lockyer
Attorney General
1300 I Street
Sacramento, CA 95814

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INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attn: Tricia Knight Initiative Coordinator

Re: Request for Title and Summary- Initiative Constitutional Amendment

Dear Mr. Lockyer:

Pursuant to Article II, section 10(d) of the California Constitution, we are submitting the attached proposed statewide ballot measure to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by the Proponents of this measure pursuant to section 9008 of the California Elections Code. We have also included a check to cover the \$200 filing fee.

Thank you for your time and attention to this matter. If you require additional information or have any questions, please contact Doug McNea, 389 Brookmere Dr., San Jose, CA 95123, (408) 472-3964.

Sincerely,

Douglas Adams McNea, Proponent

Karin Annette Hipona , Proponent

Enclosure: Proposed Initiative
Proponent(s) affidavit

SECTION 1. Title

This measure shall be known, and may be cited as the, "California Eminent Domain Limitations Act."

SECTION 2. Findings and Declarations

The people of the State of California find and declare as follows:

- (a) Eminent domain has been subject to widespread abuse in California.
- (b) The United States Supreme Court, in *Kelo v. City of New London*, has held that the United States Constitution does not prevent the transfer of property, seized through eminent domain, to private entities for private profit.
- (c) Therefore, we the people of California need protection from eminent domain seizure of private property for private profit.

SECTION 3. Purpose and Intent

In enacting this measure, it is the intent of the people of the State of California to place limits on the use of eminent domain that define the distinction between private and public use of property in California.

SECTION 4. Section 19 of Article I Declaration of Rights of the California Constitution is amended to read:

~~SECTION 19. Private property may be taken or damaged for public use only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.~~ Private property may not be taken or damaged for public use, without just compensation. Seizure of private property by eminent domain will not take place until a jury has ascertained just compensation and a court has affirmed an appropriate public use, or these rights are waived by the owner of the property, and just compensation has been deposited with the court. Eminent domain proceedings will only commence after notice upon property owner and public notice of a stated public use for the property.

The power of eminent domain shall not be used for economic development. The term "economic development" means taking private property, without the consent of the owner, and conveying or leasing such property from one private person or entity to another private person or entity for commercial enterprise, or to increase tax revenue, tax base, employment, housing density, or general economic health, except that such term shall not include:

(A) conveying private property to public ownership, such as for a road, hospital, or military base, or to an entity, such as a common carrier, that makes the property available for use by the general public as of right, such as a railroad, or public facility, or for use as a right of way, aqueduct, pipeline, or similar use;

(B) leasing property to a private person or entity that occupies an incidental part of public property or a public facility, such as a retail establishment on the ground floor of a public building;

(C) acquiring abandoned property;

(D) taking private property for use by a public utility;

(E) clearing defective chains of title; and

(F) removing harmful uses of a specific parcel of land provided such uses of that parcel constitute an immediate threat to public health and safety.